

MONTANA LEGISLATIVE HISTORY

Chapter 541 1981

Bill H _____ S 399

Original bill & history ☒ C

H. Committee on Local Government

Hearing Date(s) Mar 10 ☒ C

Mar 21 ☒ C

_____ ☐ C

_____ ☐ C

Date Out Mar 23 ☒ C

S. Committee on Local Government

Hearing Date(s) Feb 14 ☒ C

_____ ☐ C

_____ ☐ C

_____ ☐ C

Feb 14 ☒ C

Did this bill originate in an interim committee? ☐ Yes ☐ No

Committee _____

Report _____

Note: A Free Conference Committee was appointed.
Its minutes were not recorded.

1 *Sen. Smith* BILL NO. *399*
 2 INTRODUCED BY *Marly Turvey Elliott*

3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO REQUIRE VOTER
 5 APPROVAL OF A LAND-USE MASTER PLAN BEFORE IT MAY TAKE
 6 EFFECT; PROVIDING PROCEDURES BY WHICH A MASTER PLAN MUST BE
 7 SUBMITTED TO QUALIFIED ELECTORS; PROVIDING FOR THE AMENDMENT
 8 OR REPEAL OF A MASTER PLAN BY INITIATIVE OR REFERENDUM;
 9 AMENDING SECTION 76-1-604, MCA."

10
 11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 Section 1. Section 76-1-604, MCA, is amended to read:

13 "76-1-604. Adoption, revision, or rejection of master
 14 plan by local governments. (1) The governing bodies shall
 15 ~~adopt a resolution of intention to~~ adopt, revise, or reject
 16 such proposed plan or any of its parts.

17 ~~(2) If the governing bodies adopt a resolution of~~
 18 ~~intention to adopt the proposed plan or any of its parts,~~
 19 ~~they shall submit to the qualified electors of the~~
 20 ~~jurisdictional area included within the proposed plan at the~~
 21 ~~next primary or general election or at a special election~~
 22 ~~the question of whether or not the plan should be adopted.~~

23 ~~(3) The governing bodies shall publish notice of the~~
 24 ~~availability of the proposed plan for public review and the~~
 25 ~~election on the question of adoption of the proposed plan in~~

1 ~~a newspaper of general circulation in the area to be~~
 2 ~~included within the proposed plan for 3 consecutive weeks~~
 3 ~~prior to the election.~~

4 ~~(4) The governing bodies shall make copies of the~~
 5 ~~proposed plan in its entirety available to the public for~~
 6 ~~review for a period of 60 days prior to the election.~~

7 ~~(5) If a majority of the qualified electors voting on~~
 8 ~~the proposed plan approve it, the plan shall take effect~~
 9 ~~immediately. If a majority of the qualified electors voting~~
 10 ~~on the proposed plan disapprove it, the plan may not be~~
 11 ~~resubmitted to the qualified electors for a period of 1 year~~
 12 ~~from the date of disapproval.~~

13 ~~(6) (a) The governing bodies may revise or repeal a~~
 14 ~~master plan adopted under this section.~~

15 ~~(b) The qualified electors of the jurisdictional area~~
 16 ~~included within the master plan may by initiative or~~
 17 ~~referendum, as provided in 7-5-131 through 7-5-137, revise~~
 18 ~~or repeal a master plan adopted under this section."~~

-End-

REFERRED TO COMMITTEE ON HUMAN SERVICES: 3/3
REFERRED TO COMMITTEE ON STATE ADMINISTRATION: 3/5
DIED IN COMMITTEE

1997 -- S. BROWN, HIMSL -- REESTABLISHING THE BOARD OF PSYCHOLOGISTS.
INTRODUCED AND REFERRED TO COMMITTEE ON PUBLIC HEALTH: 2/7
HEARING: 2/13
REPORT: 2/19, DO PASS AS AMENDED -- STATEMENT OF INTENT
ATTACHED
2ND READING: 2/21, DO PASS
3RD READING: 2/25, YEAS: 50

TRANSMITTED TO HOUSE: 2/25
REFERRED TO COMMITTEE ON HUMAN SERVICES: 3/3
HEARING: 3/18
REPORT: 3/19, BE CONCURRED IN
2ND READING: 3/28, YEAS: 75; NAYS: 4
3RD READING: 3/31, YEAS: 86; NAYS: 13

RETURNED TO SENATE: 3/31

TRANSMITTED TO GOVERNOR: 4/8/81
ACTION: 4/10, SIGNED
CHAPTER 324

1998 -- S. BROWN, HIMSL -- REESTABLISHING THE BOARD OF MORTICIANS.
INTRODUCED AND REFERRED TO COMMITTEE ON PUBLIC HEALTH: 2/7
HEARING: 2/13
REPORT: 2/19, DO PASS AS AMENDED -- STATEMENT OF INTENT
ATTACHED
2ND READING: 2/21, DO PASS
3RD READING: 2/24, YEAS: 49; NAYS: 0

TRANSMITTED TO HOUSE: 2/24
REFERRED TO COMMITTEE ON HUMAN SERVICES: 3/3
HEARING: 3/18
REPORT: 3/19, BE CONCURRED IN, AS AMENDED
2ND READING: 3/26, YEAS: 70; NAYS: 2
3RD READING: 3/28, YEAS: 81; NAYS: 11

RETURNED TO SENATE WITH AMENDMENTS: 3/28
2ND READING: 4/3, YEAS: 23; NAYS: 20
3RD READING: 4/6, YEAS: 36; NAYS: 13

TRANSMITTED TO GOVERNOR: 4/10/81
ACTION: 4/15, SIGNED
CHAPTER 378

1999 -- MANLEY, TURNAGE, ELLIOTT -- TO PROVIDE FOR VOTER APPROVAL OF A
LAND-USE MASTER PLAN...

INTRODUCED AND REFERRED TO COMMITTEE ON LOCAL GOVERNMENT: 2/7
HEARING: 2/14
REPORT: 2/16, DO PASS
2ND READING: 2/18, YEAS: 37; NAYS: 10
3RD READING: 2/20, YEAS: 45; NAYS: 5

TRANSMITTED TO HOUSE: 2/20
REFERRED TO COMMITTEE ON LOCAL GOVERNMENT: 2/21
HEARING: 3/10
REPORT: 3/23, BE CONCURRED IN, AS AMENDED

2ND READING: 3/26, YEAS: 67; NAYS: 6
3RD READING: 3/31, YEAS: 93; NAYS: 5

RETURNED TO SENATE WITH AMENDMENTS: 3/31
2ND READING: 4/10, BE NOT CONCURRED
ON MOTION, 4/13, CONFERENCE COMMITTEE APPOINTED
ON MOTION, 4/15, CONFERENCE COMMITTEE DISSOLVED
FREE CONFERENCE COMMITTEE APPOINTED

FREE CONFERENCE COMMITTEE REPORT NO. 1: 4/15

SENATE
2ND READING: 4/16, BE CONCURRED IN
3RD READING: 4/17, YEAS: 48; NAYS: 1
HOUSE
2ND READING: 4/20, YEAS: 79; NAYS: 2
ON MOTION, 4/20, RULES SUSPENDED, PLACED ON 3RD READING
3RD READING: 4/20, YEAS: 92; NAYS: 3

TRANSMITTED TO GOVERNOR: 4/23/81
ACTION: 4/29, SIGNED
CHAPTER 541

SB 400 -- HALLIGAN, MAZUREK -- TO CLARIFY THAT UPON PETITION
REHEARING OF A SUPREME COURT DECISION THE ADVERSE PARTY MAY
OBJECTIONS...

INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY: 2/7
HEARING: 2/14
REPORT: 2/14, DO PASS
2ND READING: 2/17, DO PASS
3RD READING: 2/19, YEAS: 48; NAYS: 0

TRANSMITTED TO HOUSE: 2/19
REFERRED TO COMMITTEE ON JUDICIARY: 2/20
HEARING: 3/16
REPORT: 3/16, BE CONCURRED IN
ON MOTION, 3/21, PASSED FOR THE DAY.
2ND READING: 3/26, YEAS: 72; NAYS: 0
3RD READING: 3/28, YEAS: 94; NAYS: 0

RETURNED TO SENATE: 3/28

TRANSMITTED TO GOVERNOR: 4/3/81
ACTION: 4/7, SIGNED
CHAPTER 294

SB 401 -- STATE ADMINISTRATION COMMITTEE -- COMPENSATING LEGISLATORS
INCIDENTAL EXPENSES INCURRED DURING THE INTERIM.

INTRODUCED AND REFERRED TO COMMITTEE ON
ADMINISTRATION: 2/7
HEARING: 2/9
REPORT: 2/10, DO PASS AS AMENDED
2ND READING: 2/12, AS AMENDED -- YEAS: 19; NAYS: 29
MOTION TO INDEFINITELY POSTPONE: 2/12, YEAS: 27; NAYS: 1
KILLED

SB 402 -- TOWE, BLAYLOCK, REGAN, BERG -- CREATING AN ECONOMIC
DEVELOPMENT DIVISION WITHIN THE DEPARTMENT OF COMMERCE.

INTRODUCED AND REFERRED TO COMMITTEE ON
ADMINISTRATION: 2/7
HEARING: 2/13

NAME: David Williams DATE: 10/4/81

ADDRESS: The F.T. Kennedy YPT

PHONE: 244-5227

REPRESENTING WHOM? John F. Kennedy

APPEARING ON WHICH PROPOSAL: _____

DO YOU: SUPPORT? ✓ AMEND? OPPOSE?

COMMENTS: 10-2 (2) 15-11

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: William F. Ryan DATE: 9-14-81

ADDRESS: 2100 Flynn Ave. New York, NY

PHONE: 549-6252

REPRESENTING WHOM? Self

APPEARING ON WHICH PROPOSAL: 549-6252

DO YOU: SUPPORT? ~~Support~~ AMEND? OPPOSE?

COMMENTS:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

LOCAL GOVERNMENT COMMITTEE

Date 2/14

[illegible]

Each day attach to minutes.

Senator Conover said it is exactly as Senator Van Valkenburg said. It is one way and you are going to swing it the other way. He asked how Senator Van Valkenburg would amend it to even it out.

Senator Van Valkenburg said the title is one problem.

Senator O'Hara told Senator Van Valkenburg he would have to allow amendments down on the floor anyway.

Senator McCallum said he doubted, by listening to the comments of the committee, that he could get the amendments passed in the committee.

Senator Van Valkenburg said he could see no sense in holding this over for amendments. It would have a better chance on the floor.

Senator Hammond's motion passed with all but Senator Van Valkenburg saying aye.

DISPOSITION OF SENATE BILL NO. 133: Senator Hammond moved this bill DO PASS. Senator Van Valkenburg abstained, all others voted aye.

DISCUSSION OF SENATE BILL NO. 343: Senator Conover moved the amendments be adopted. This motion carried.

Senator Van Valkenburg asked what about the questions with election laws on page 1, line 19, limiting the vote on this to taxpayers.

No further action was taken on the bill.

DISPOSITION OF SENATE BILL NO. 353: Senator Ochsner moved this bill DO PASS. It passed unanimously.

DISPOSITION OF SENATE BILL NO. 153: Senator Ochsner moved this bill DO NOT PASS.

Senator McCallum said 2 mills was too much. It should have been .25 mills.

Senator Hammond said 2 mills was too much and it would be imposed on some people that don't need it at all.

The vote was taken. Senator McCallum abstained, Senators O'Hara and Van Valkenburg were opposed and Senators Hammond, Ochsner and Conover voted aye. The motion carried.

DISPOSITON OF SENATE BILL NO. 325: Senator O'Hara moved they amend the bill to take out the matrix and put it back like it was and change the minimum of \$15,000 to \$17,000 and the maximum of \$20,000 to \$22,000.

NAME: David H. Nelson DATE: Feb. 14, 1971

ADDRESS: 828 Ronald A. R. Missouri 5980

PHONE: 549-7645

REPRESENTING WHOM? None

APPEARING ON WHICH PROPOSAL: 137-11-4 395

DO YOU: SUPPORT? ☒ AMEND? ☐ OPPOSE? ☐

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

Senator McCallum then called for questions from the committee.

Senator Conover asked why 7 was reduced to 3 on page 2.

Senator Thomas said with a 7-day notice, people forget about the hearing. This is just 3 days before the hearing date.

Senator Hammond asked if this was in the city limits.

Mr. Mizner said there is a jurisdictional area if they adopt it. The city has to adopt it within the zoning area.

Senator Hammond said people have been saying the notice is not enough as it is.

Senator O'Hara said Senator Bob Brown objected to this.

Senator Thomas apologized to the committee that the city of Great Falls was not here to explain the situation to the committee.

DISPOSITION OF SENATE BILL NO. 368: Senator Van Valkenburg moved this bill DO PASS. The motion passed unanimously.

DISPOSITION OF SENATE BILL NO. 399: Senator Hammond moved this bill DO PASS.

Senator Van Valkenburg said he would like to amend the bill but is not prepared right now. He said this was a classic example of swinging the pendulum as far to one side as it was at the other. This didn't get on the books to begin with without some good reason. He would like to develop some amendments that will treat the concerns he has.

Senator O'Hara asked if Senator Van Valkenburg would be willing to present those amendments on the floor so everyone, including Senators Turnage, Manley and Elliott, could address them. This bill was not thought about lightly before they put it in.

Senator McCallum said he would hold the bill if Senator Van Valkenburg felt strongly about it.

Senator Van Valkenburg asked the committee if it would make any difference to them. There is no sense in making amendments if the committee is not interested in them.

Senator Hammond said he had made up his mind before he heard any of this because he has been exposed to this. He is in favor of passing the bill to the Senate floor.

Senator Ochsner said his mind was made up before, also. He will consider hearing the amendments on the floor.

CONSIDERATION OF SENATE BILL NOS. 133 and 399:

SB133: AN ACT TO INCREASE LANDOWNER CONTROL OF ZONING BY REQUIRING LANDOWNER APPROVAL BEFORE ZONING MEASURES ARE ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS.

SB399: AN ACT TO REQUIRE VOTER APPROVAL OF A LAND-USE MASTER PLAN BEFORE IT MAY TAKE EFFECT.

Senator Manley, District 14 and sponsor of both bills, said the people of Montana are running into problems with zoning and regulations put on property by city-county planning without any representation of the people who own the land. The city-county planners should come out with a detailed plan and submit it to the people who own the property and then let those property owners vote on it. This does not take away city-county planning, it just lets the people being effected have something to say about it.

Elmer Flynn of Missoula was in support of both bills. People in the Missoula valley are subjected to more abuse of this zoning than anyone in the state. Zoning in that area has been changed 3 times. People should have a voice in laying out the master plan. They had 3 different planners. The first one marked the whole valley as agriculture. The next planner had different ideas and changed the whole valley. At one time they had more light industrial areas than Chicago. They always have to petition to change these things. The planners did not do any research on the land before they started their zoning.

Margaret Copenhaver, representing Ovando citizens opposing zoning, spoke in favor of Senate Bill No. 133. (See attached Exhibit G.)

Vera Cahoon, chairman of the Missoula County Freeholders Association, spoke in favor of both bills. (See attached Exhibit H.)

Senator Turnage spoke on Senate Bill No. 399 but supports both bills. This bill addresses the sections of the Montana Codes Annotated relating to master land-use planning. The people being effected have no input on the plan as a practical matter. Input can be made but it will probably not be addressed. Once a master plan is adopted, county commissioners cannot change that plan. This is a total denial of our form of government. The people have no right to vote on the plan as it is now. This bill requires they vote on it and it gives the people the right to initiate changes in the plan. This bill will be opposed by economic planners because it shifts political power from appointed individuals to the elected individuals. You have to give people the chance to approve the things that are going to happen to them.

Local Government Committee Minutes

February 14, 1981

Page 4

This bill won't stop planning but will make it responsible.

David Maclay, a property owner in Montana, has attended dozens of meetings and given input and has learned his input meant nothing. The planners had figured out what they were going to do before the meeting and nothing said at the meetings ever made any difference. He favors this bill because it provides for some kind of statement from individual owners.

Robert Boucher, chairman of the Blackfoot Freeholders Association, hopes the committee passes Senate Bill No. 133. The bill will allow land owners to vote and will allow control over changes. He is not against zoning or control but feels land owners should have control of these changes and regulations. Also, this bill requires county commissioners to notify land owners of the zoning intent by mail. Notification in the newspapers just doesn't work.

Julie Hacker of Bonner said this gives land owners the opportunity to vote on measures. The democratic process is constantly causing you to look over your shoulder to see what the government is going to impose on you next. This way they will have notice. She urges a do pass.

Robert Hart of Helena owns property in Greenough and urges a do pass.

Ed Sheehy, Jr., representing the Montana Manufactured Housing Association, said most master plans are outdated for mobile homes. In Helena and Butte you have to adopt a master plan to do any zoning. When they zone they allocate portions of the county that are swamp land or hillsides for mobile homes. You can't put mobile homes on that type of land. He thinks people should have a say in the matter.

There were no further proponents of the bill, Senator McCallum then called for opponents.

Don Snow of the Environmental Information Center directed his comments to Senate Bill No. 399. He said his organization is generally for voter approval but in this case they have to take a stand against it. There are certain features the committee needs to consider. Land-use planning in Montana is generally recognized as a positive tool in planning. There is a lack of consistent land-use plans. In most instances there are opportunities to participate in the process of planning. Perhaps they are too limited. Land-use plans are often flexible. There was a case in Flathead county where the land-use plan said no subdivisions but they were approved anyway. In that regard the county commissioners have the right to repeal or modify land-use plans. The ultimate intent of this bill is ally planning. Lines 15 through 18 on page 2 take away the governing body's power to revise or appeal the plan that was given to them in lines 13 and 14. The voter saying yes or no to the plan could end up delaying

setting up the plan. They think voter approval is not a good idea in this case.

Senator Van Valkenburg wanted to call the committee's attention to a letter they received from a member of the county attorney's staff in Missoula. (See attached Exhibit I.)

Senator Turnage was allowed to make the closing remarks. He said it was a valid point the opponent made in saying the Environmental Information Center usually was for voter approval except in this instance. Part 6 of Title 76 covers the master plan. He asked that anyone who has doubts that people should have input in the master plan should read this section. Land-use decisions control everything you do and you don't have any say in it. An appointed government decides that. The county commissioners cannot change the plan after it is adopted. A planning board prepares the master plan, these people are not elected. If you believe your lives should be controlled by free and open elections, vote for the bill.

There were no questions from the committee.

CONSIDERATION OF SENATE BILL NO. 368:

AN ACT REQUIRING CERTIFICATION BY THE COUNTY
TREASURER THAT THERE ARE NO DELINQUENT TAXES
OUTSTANDING ON PROPERTY PROPOSED TO BE SUB-
DIVIDED.

Senator Elliott, District No. 8 in Columbia Falls, said he was requested to present this bill on behalf of county treasurers of Montana. It pertains to payment of real estate taxes. The problem occurs when a tract of land of which the taxes have not been paid, is platted into parts for subdivisions. It is the responsibility of the county treasurer to reallocate the taxes against the loss created. This creates liens against each new property owner. This bill requires the treasurer to certify that there are no delinquent taxes outstanding on property to be subdivided.

C. L. Buck O'Connell of the Montana County Treasurers Association spoke in favor of the bill. (See attached Exhibit J.)

Mike Stephen of the Montana Association of Counties supports this bill. Any effort to clean up delinquent taxes is a step in the right direction. The delinquency rates in some counties are running quite high. This assists treasurers in looking at and collecting these taxes in a timely manner.

Dan Mizner of the League of Cities and Towns supports this bill.

NAME: John M. Smith

DATE: 5-17-81

ADDRESS: Fla. Pte - Veterans - Miami, Fla.

PHONE: 244-7021

REPRESENTING WHOM? Self

APPEARING ON WHICH PROPOSAL: 50135-090

DO YOU: SUPPORT? X

AMEND?

OPPOSE?

COMMENTS: 2/17/2000

on the French side of the San Antonio River

1. The first part of the paper is a review of the literature.

The month of June 1891

inserted the Public Address L. A.

Specialties: and various other

Spent the last 2 weeks in the

1. The test should be conducted in a laboratory.

[illegible]

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMISSIONER

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Ed Sheehy Jr DATE: 2/14/81

ADDRESS: 2031 11th Ave

PHONE: 442-9930

REPRESENTING WHOM? MT Manufactured Housing Assoc.

APPEARING ON WHICH PROPOSAL: 513 133 399

DO YOU: SUPPORT? ☒ AMEND? ☐ OPPOSE? ☐

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Alfred M. Hutchison DATE: 2-14-81

ADDRESS: 460 Mont. Ave. East Missoula, MT 59801

PHONE: (406) 721-1610

REPRESENTING WHOM? Self From East Missoula

APPEARING ON WHICH PROPOSAL: SB-133 + SB-399

DO YOU: SUPPORT? ☒ AMEND? ☐ OPPOSE? ☐
Both

COMMENTS: _____

I Support these Bills because I feel that
Land owners need to have more control
of there property, we need less zoning
being done by people in offices. Let the
people have more control of their own lives
get Govt. out of part of our lives that
we can handle by our selves.

Thank you

Alfred M. Hutchison

NAME: Coy Nelson DATE: 2-14-81

ADDRESS: Star Pt. Potomac Mt.

PHONE: 202-5251

REPRESENTING WHOM? Blackfoot Valley Producers

APPEARING ON WHICH PROPOSAL: 133 + 399

DO YOU: SUPPORT? ☒ AMEND? ☐ OPPOSE? ☐

COMMENTS: I support these bills 133 + 399

because it reserves the rights for
land owners to have a say on
their land.

NAME: Jim Truitt DATE: 2/14/91

ADDRESS: Rm 625 P.O. Clinton, Md 20725

PHONE: 225-4853

REPRESENTING WHOM? Marble County Land Trust

APPEARING ON WHICH PROPOSAL: AB 139 AB 599

DO YOU: SUPPORT? ☒ AMEND? ☐ OPPOSE? ☐

COMMENTS: Due to difficulties in getting

county has avoided zoning and planning

due to lack of control over the land holding

coming to process to allow a board and commission

to decide on land use. It will not land use

it is land control.

AB 139 would allow low land planning

county wide with more public board and

and input. Comprehensive Plan in Maryland

has failed to produce the expected results.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: John D. Withers Jr. DATE: Feb 14 1981

ADDRESS: 2929 Laurel St. Missoula, MT

PHONE: 251-4200

REPRESENTING WHOM? Self

APPEARING ON WHICH PROPOSAL: SD 399 T KR 133

DO YOU: SUPPORT? ☒ AMENITY? ☐ OPPOSE? ☐

COMMENTS: I believe the public should have
a voice in electing the members
of the board to know their constituents
and to correct mistakes
and to correct mistakes
and the right to make their own

Senator George McCallum
Chairman, Senate Local Government Comm.

Dear Senator McCallum,

I am unable to attend the Senate committee hearing on S.B. 399 and wish to make these comments a part of the hearing record.

In my capacity as a deputy county attorney responsible for the enforcement of land use laws and regulations, I am constantly reminded of the critical need to have a workable set of laws. I do not believe that S.B. 399 is workable or desirable for the following reasons:

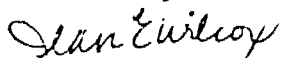
1. Comprehensive plans are guides for making more specific regulations such as zoning and for evaluating subdivision proposals. Each governing body charged by law with making those decisions must be allowed some discretion in applying this guide in order to respond to specific needs of business, industry, residents, and the community as a whole.
2. Requiring voter approval of a community plan will lock our local elected officials into a literal compliance with a generalized plan under the pressure of acting according to the people's mandate.
3. Once a plan is adopted under this method, there will be an extreme reluctance to make any revisions or amendments in future years despite the changing needs of a dynamic community. This lack of flexibility will be most detrimental to commercial and industrial growth which is more heavily dependent on a fluctuating market system.
4. Master plans contain a great deal of technical information as is indicated by the long list of items in MCA 76-1-601 which may be included in a plan. We must face the fact that few voters have the time or inclination to fully educate themselves on ballot issues. The majority of people are influenced primarily by the media and opinions of their friends. Distortions are easily nurtured. Each of you senators must know how delicately you need to treat your election in order to avoid defeat because of a false rumor.
5. The final decision to adopt a master plan is properly made by the local elected officials who are in a position to see, hear, and respond to the wide range of interests their community has. Local elected officials are also in a position to devote their full concentration and understanding to the technical complexities of developing a plan with the help of experts. They provide the forum for interested citizens to come forward and work out a plan to meet the needs of everyone. And finally, our system of government is structured on the notion that elected officials are charged with the responsibility of looking out for the health, safety, and general welfare of all people and weighing the demands of special interests.

constantly reminded of the critical need to have a workable set of laws. I do not believe that S.B. 399 is workable or desirable for the following reasons:

1. Comprehensive plans are guides for making more specific regulations such as zoning and for evaluating subdivision proposals. Each governing body charged by law with making those decisions must be allowed some discretion in applying this guide in order to respond to specific needs of business, industry, residents, and the community as a whole.
2. Requiring voter approval of a community plan will lock our local elected officials into a literal compliance with a generalized plan under the pressure of acting according to the people's mandate.
3. Once a plan is adopted under this method, there will be an extreme reluctance to make any revisions or amendments in future years despite the changing needs of a dynamic community. This lack of flexibility will be most detrimental to commercial and industrial growth which is more heavily dependent on a fluctuating market system.
4. Master plans contain a great deal of technical information as is indicated by the long list of items in MCA 76-1-601 which may be included in a plan. We must face the fact that few voters have the time or inclination to fully educate themselves on ballot issues. The majority of people are influenced primarily by the media and opinions of their friends. Distortions are easily nurtured. Each of you senators must know how delicately you need to treat your election in order to avoid defeat because of a false rumor.
5. The final decision to adopt a master plan is properly made by the local elected officials who are in a position to see, hear, and respond to the wide range of interests their community has. Local elected officials are also in a position to devote their full concentration and understanding to the technical complexities of developing a plan with the help of experts. They provide the forum for interested citizens to come forward and work out a plan to meet the needs of everyone. And finally, our system of government is structured on the notion that elected officials are charged with the responsibility of looking out for the health, safety, and general welfare of all people and weighing the demands of special interests. To place approval of a master plan in the hands of the voters will degrade our system of government into a battle of special interest groups and deprive a community of the benefit of having certain elected officials make the decision to adopt a plan with the whole community's benefit in mind.

I strongly urge you to vote against passage of S.B. 399.

Sincerely,



Jean E. Wilcox
1331 Harrison
Missoula, Montana

Senate Bill No 399

U.S. House of Representatives
828 Ronald A. ...
Minnesota 55101

To the Committee:

Have the passage of this bill.

Past procedure of our planning department
has followed a routine of meeting in which
the planning board has heard what purports
to be public discussion.

Without deviating from the pre conceived
plan, at least once we were told what we
could expect. Then the plan would be implemented.
We had little chance to give our views and
in our instances were our wishes considered.

This Bill 399 would help to correct this defect.

David J. MacLay

DAVID J. MACLAY

828

Minnesota

SENATE COMMITTEE ON LOCAL GOVERNMENT

Date 2/14/81 Senate Bill No. 399 Time 12:35

NAME	YES	NO
Senator George McCallum	✓	
Senator Jesse O'Hara	✓	
Senator H. W. Hammond	✓	
Senator J. Donald Ochsner	✓	
Senator Bill Thomas	Absent	
Senator Max Conover	✓	
Senator Fred Van Valkenburg		✓

Gail Stockwell
Secretary, Gail Stockwell

George McCallum
Chairman, GEORGE MCCALLUM

Motion: Senator Hammond moved SB399 TO PASS.

(include enough information on motion—put with yellow copy of committee report.)

STANDING COMMITTEE REPORT

February 14

19 31

MR. PRESIDENT

We, your committee on LOCAL GOVERNMENT

having had under consideration SENATE Bill No. 399

Respectfully report as follows: That SENATE Bill No. 399

DO PASS

L.C.

If you are going to have a zoning plan in an area, what is wrong with asking for a good job? If you listened to the people from Ovando, you can tell how one neighbor feels about another now. Had everything been well detailed, well planned and presented in the open to the people in the area and put up to an election, I personally feel the zoning would have been accepted. But it wasn't because of the people didn't think they were being polled about what was being done to their land and their rights. They rebelled. It made them mad, so they hurried up, got a petition and stopped what was happening to their land before they were even told. There really is a need for this piece of legislation. The only problem is that it may be 10 or 15 years too late for a lot of areas. Look at Bozeman when you drive from Manhattan into town and see what happened to the valley which perhaps 20 years ago was one of the most beautiful agricultural areas in the State of Montana. People from that area, take a good look at this next time you go over there.

This was done and allowed by bureaucrats who didn't ask the people. They did it without approval from the landowners. You can go through the Bitterroot Valley and see the same thing. This bill should be passed now to keep this from happening further and further out into the country. I feel it is a sacrilege to not allow the people who own and live on the land to vote on what is going to happen to it. I hope that you will allow this bill to pass so we can start getting a handle on some of the things which are happening.

VICE CHAIRMAN VINGER closed the hearing on Senate Bill 133.

SENATE BILL 399 - sponsored by SENATOR JOHN MANLEY.

VICE CHAIRMAN VINGER said the hearing is now open, and he called on Senator Manley to introduce the bill.

SENATOR MANLEY said that Senate Bill 399 addresses approximately the same problems as SB 133, but he asked to turn the introduction of the bill over to Senator Turnage.

SENATOR TURNAGE said he is from District 13 and resides at Hillcrest in Polson. One thing you can't say about this bill is that it is a local interest problem. It includes the right to vote to all electors, not just the landowners. In the present law, if there are problems in the sections that SB 133 missed, the problems are not nearly as severe as in the heart and sections of SB 399. This bill deals with Title 76, Part 6, Chapter I and has to do with the Master Plan. Before you can understand how important it is that something must be done in the nature of SB 399, you have to consider the entire Part 6 of the Master Plan sections and what they propose to encompass.

SENATOR TURNAGE went over 76-1-601 of the contents of the Master Plan discussing each section as he went. When he finished, he

submitted that this is a responsible way to allow those that are going to be governed to make a decision in an open and free election as to how they'll be governed. The present law does not do that. Keep in mind that once the plan is adopted, even the County Commissioners can't amend it. The people cannot initiate any change. Finally, the people have no effective voice on whether or not any part of the plan will be adopted at all.

SENATOR MANLEY asked Chairman Vinger if they could give up their time for proponents and let the opponents present their views. Rep. Vinger said he'd allow the opponents to speak first.

OPPONENTS TO SENATE BILL 399

ROSE LEAVITT represented the Montana League of Women Voters. She said the League supports the concept of voter approval of the land use Master Plan. Because there are so many ambiguities in SB 399 and because the intent is not clear, we urge you reject the bill or amend it to make it workable. (She submitted written testimony which is attached to and made a part of these minutes.)

GALE ALLEN of Butte represented the Montana Association of Planners. They opposed this bill based upon the fact that the procedures as they are written are not clear. For instance, whose plan is submitted for a vote of the people? Not only does the plan effect land use that seems to be the major element of concern, but it effects many other items. It effects such items as capital sewer improvement, utilities, telephone lines, street development, and so forth. Because of this, it would not only slow land use development, but would slow up basic community development, which often times in our full impact growth areas is widely needed. Once adopted, the plan is inflexible. Such a bill does not recognize deficiencies in the plan once they are passed. Because of this inflexibility, unforeseen changes in the community are not perceived and the plan cannot be readily amended.

THURMAN TROSPER said he is a member of Lake County Planning Board and he's been working on this bill for about four years. (His written testimony is attached to and made a part of these minutes.)

BOB DECKER, Lewis & Clark County Commissioner, said Lewis and Clark County is not opposed per se to the elective process of the bill, but the rest of the bill seems to be very confusing and could lead to a lot of statutory challenges and court cases. Section 6 allows the public to vote on a land-use plan. It says a governing body may repeal or revise a master plan adopted under this section. Planning is a dynamic process. It goes hand and foot with growth and development. Planning must be the same way. So plans change from year to year. As I understand it, the bill would allow the governing body to make changes in the Master Plan if not unilateral at least with the public consent. If that is so, what meaning does initial voter approval have with the Master Plan. It seems to me after administrations

change, they would change the plan if they saw fit and we'd be back in the same boat as we are today. It disagrees with the first part of the bill. If it isn't that way, the governing bodies cannot make changes after the Master Plan has been initially adopted, so where is the flexibility in planning that we need to address changes in economics, agriculture, funding sources, you name it? Either we have flexibility or we don't and the bill as written is very confusing regarding that question.

QUESTIONS FROM COMMITTEE MEMBERS

REP. AZZARA for Senator Turnage: I like this bill and feel it might be workable, but you have conveyed the impression that the counties are obligated to adopt Master Plans and they are not. There are only 4 or 5 counties in the State that have a Master Plan.

SENATOR TURNAGE said he did not say that they statutorily must adopt a plan. I said that the statute requires that you either adopt, amend or reject. I did say that after the County Commissioners had spent thousands of dollars buying the plan, the practical matter was yes, they must adopt it.

REP. AZZARA said that Missoula's plan has been systematically ignored. Don't you believe, Senator Turnage, that there are a series of options which never really become law until they are adopted by a governing body?.

SENATOR TURNAGE said 606 deals with subdivisions (plats). As far as adopting ordinances, we want them all adopted at one time. Once the Master Plan has adopted the ordinances, it must be under the statutes.

REP. ANDREASON asked Senator Turnage about the same question as Bob Decker did on Section 6. I'm not sure why that section is in there.

SENATOR TURNAGE: The present law does not allow the county commissioners or city council members to amend, revise or repeal the plan. Once the plan has been adopted, it cannot be changed.

REP. ANDREASON said perhaps we should have stated something about their ability to have input, revise or change it. It seems very drastic that once we've set up a plan with voter approval, all of a sudden we get to Section 6 and they can repeal it.

SENATOR TURNAGE said it is inflexible. Nobody can change it.

REP. MATSKO asked Senator Turnage if it is his intention that Section 6, sub (a) and (b) would allow for modifying those Master Plans already in effect.

SENATOR TURNAGE said, "that is my intent."

REP. HANNAH for Senator Turnage: On page 2, lines 9 to 12, the bill reads: "If a majority of the qualified electors voting on the proposed plan disapprove it, the plan may not be resubmitted to the qualified electors for a period of one year from the date of disapproval." There is a certain amount of vagueness. If the plan were basically a good plan and the people supported it except for one area and because of that area they voted the plan down, does that mean that we can't come back for a full year with any plan?

SENATOR TURNAGE: The planners are afraid that if you allow all the people to vote on the plan, special interest groups will gut the plan. What do you think we're all doing here in Helena? We're laying plans for the entire state. Often times special interest groups gut somebody's plans. That is the democratic process. If there are defects, I submit they are a lot more safe to live with than having a floated government with planning boards, with the government writing their laws so they can control your activity. With this I will close.

ACTING CHAIRMAN VINGER closed the hearing on SENATE BILL 399.

EXECUTIVE SESSION:

SENATE BILL 152

CHAIRMAN BERTELSEN stated he feels we should take some action on SENATE BILL 152. This is the bill to allow municipalities greater flexibility in assessing the costs of installing and maintaining a lighting system to those who benefit from a special lighting district. The Chairman said it was brought up to him that there was a move to reconsider, so he asked Rep. Marks what we should do to hold it and not put it on the floor until the committee has a chance to consider whether they want to reconsider House Bill 152. It seems better to bring the bill back to committee and see whether that is what they really want to do.

REP. KITSELMAN said he'd move to reconsider SENATE BILL 152. He feels we should reconsider as right now county government can charge or assess 100% for a lighting district. In Billings where we have annexation, the maximum is about 75% as 25% is passed on to the rest of the city. The money has to come from somewhere and at present it is coming out of their general fund which approximates \$100,000. Another thing is the fact that it is assessed to the whole city. I'm in the city, but I don't have any lights. But I'm paying for lights across town. That situation is not fair.

CHAIRMAN BERTELSEN said the question was brought to him that we probably haven't given the bill enough consideration. There were some arguments which we didn't bring up in committee. If you want to reconsider it, I have no strong feeling either way.

NAME Guarita Lopez Bill No. SB 133 & SB 399
ADDRESS Quincy Mt DATE Feb 10-81
WHOM DO YOU REPRESENT Self
SUPPORT X OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:
Have a written testimony that is left.

Mr. Chairman and Members of the Committee, my name is *Janita Hayes* of Ovando in Powell county. In regards to SB 133 and SB 399 I would like to express my views why I urge you members of the House Local Government Committee to approve these two bills.

a group of people
In 1980 ~~Rep. Verner Bertelsen and proponents~~ presented a zoning proposal for School District 11 to the county commissioners stating that 60% of the landowners were in favor of the zoning proposal. The signatures on the petition were accumulated through 1978, 1979 and 1980. A number of citizens felt the regulations were so restrictive the landowner was being deprived of his rights.

When a protest petition was circulated some proponents became irate and resorted to dirty tricks and harassment such as phoney land sale adds, accusations of ignorance and lack of interest in the community, all of which accomplished only hard feelings in the community, and leads one to believe some ^{*underlying*} ~~subversive~~ interest must have been behind it. One ~~of the proponents~~ ^{*of the proponents*} working on the zoning proposal was investing in a large subdivision on the Double Arrow. ^{*in Seeley Lake, Mt.*} Does that sound like he has the interest of the people at heart?

In gathering signatures of 40% of the landowners on the protest petition we found out most of the people did not understand what the zoning would mean to them personally, and had many different ideas as to why they had signed the petition in favor of the proposal in the first place.

I think it is unfair to have such a convenient law that ~~only a few~~ citizens can present their own proposal to the county commissioners without assurance the landowner has a say in the zoning of his land. I am not against zoning but against the way the regulations are written.

my daddy, many other men

~~Our boys~~ fought for the freedom of this ~~America~~ but it seems like now we have forces from within trying to destroy this freedom.

NAME Robert J Boucher Bill No. 133 + 399

ADDRESS Star Route Potomac DATE 3/9/81

WHOM DO YOU REPRESENT Blackfoot Freeholders ASS.

SUPPORT X OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY. ATTN: Mr. Gould

Comments: IT should be made clear there will be only one election in HB 133, and that is to determine if an area is going to be zoned. And all ^{affected} freeholders should have a vote. There would not be a vote concerning any regulation changes. The ^(present) normal procedure would be followed for variances or special exceptions, etc. If the freeholders do not agree to any decisions concerning regulation changes or lack of changes, ^{they} can by 40% of the affected freeholders on petition (SHT 6, line 18), over rule the decision. There would not be an election on any zoning regulation changes. The petition would allow the affected freeholders to maintain control of regulations, and still allows the present process for changes. ~~there needs~~

MARCH 10, 1981

MR. CHAIRMAN, MEMBERS OF THE LOCAL GOV'T. COMMITTEE
MY NAME IS VERA CAHOON. I AM CHAIRMAN OF THE MISSOULA COUNTY FREEHOLDERS ASSOC.
AND I REPRESENT THAT GROUP HERE TODAY.

I RISE IN STRONG SUPPORT OF SB 133 AND SB399.
ZONING LAWS IN THEIR PRESENT FORM ARE, FOR THE LARGE PART NOT WORKING, PARTICULARLY
IN THE RURAL AREAS. ALMOST ALL ATTEMPTS TO ZONE IN THE OUTLYING AREAS OF THE COUNTY
HAVE BEEN SOUNDLY DEFEATED. WHY?? THE PROPOSALS BEING FOISTED UPON US SIMPLY DID
NOTHING TO IMPROVE THAT WHICH WE ALREADY HAD. A ZONING PLAN THAT IS COMPOSED OF
DRAWING LINES ON A MAP, SAYING THIS WILL BE AGRICULTURE AND THIS OPEN SPACE AND
AND YOU CAN BUILD A HOUSE HERE JUST DOESN'T WORK.
THE ZONING PROPOSAL IN THE BLACKFOOT POTOMAC AREA WENT DOWN TO DEFEAT BY AN 86%
PROTEST DECISION BY PETITION. WE WERE TO BE ZONED 1-40 OVERALL. AGRICULTURE
AND OPEN SPACES. THE LINES ON THE MAP WERE DRAWN AND ROCKY JACK PINE COVERED HILL
SIDES WERE TO BE ZONED AGRICULTURE. FORTY ACRES OF THIS LAND WILL NOT FEED ONE COW.
ZONED 1-40 THIS IS A WASTE OF LAND. WHO WANTS FORTY ACRES TO BUILD A HOUSE ON
AND THEN FOR TAX PURPOSES BE CLASSIFIED SUBURBAN TRACT, THE HIGHEST TAX VALUATION
THERE IS, IN MISSOULA COUNTY THAT'S \$1550 PER ACRE. WE ASKED TO HAVE A BETTER BREAK*
DOWN THAN THE 1-40 OVERALL. AND IN THE FACE OF PUBLIC INPUT, PROTEST AND REQUEST
WE WERE TOLD THAT IT COULD NOT BE DONE DIFFERENTLY BECAUSE IT WOULD NOT BE COM-
PATIBLE WITH THE COMPREHENSIVE PLAN. THAT MY FRIENDS WAS THE REASON, THE ONLY
REASON IT HAD TO BE 1-40 OVERALL. THERE HAS TO BE A BETTER WAY. *Quickly if this kind of zoning is the only way*
WHEN A DEVELOPER BUILT NINE HOUSES ON SIX LOTS ON THE BLACKFOOT RIVER AND CALLED *City*
IT A CONDOMINIUM, NO REVIEW, WE QUESTIONED AND FOUND CONDO'S NEED NO REVIEW. WE
WERE TOLD IF WE WERE ZONED THIS WOULD'NT HAPPEN. HOWEVER A FEW MONTHS LATER
THE SAME THING HAPPENED IN A ZONED AREA AND WE WERE TOLD, OH, ITS EASY, JUST GET
A ZONING CHANGE OR VARIANCE. NOW, WHICH IS IT? IT CAN'T BE BOTH WAYS. WE MUST
HAVE SOME CONTROL OVER CHANGE..
WE ARE SIMPLY ASKING THAT WHEN A NEW ZONING DISTRICT IS BEING CREATED AND AFTER THE
PROPER PUBLIC INPUT, THEN GIVE THE AFFECTED LANDOWNERS A VOTE ON THE PROPOSAL. SB-133
WOULD GIVE US THIS VOTE..
PETITIONS HAVE A WAY OF BEING MISUNDERSTOOD, MISREPRESENTED, LOST AND DECLARED
ILLEGAL. THERE IS NO ISSUE THAT CAUSES NEIGHBORHOOD WARS LIKE A ZONING ISSUE.
YOUR VOTE IS PRIVATE, THE MAJORITY RULES AND THE ISSUE IS SETTLED.
THE MISSOULA CO. PLANNING DEPT. HAS A BUDGET OF \$511,968 AND SIXTEEN STAFF MEMBERS.
\$187,000 OF THAT IS COUNTY GENERATED. I THINK WE HAVE A RIGHT TO EXPECT SOMETHING
BETTER THAN WHAT WE ARE GETTING. SB-133 WILL RESULT IN BETTER PLANNING AND LESS
EXPENSE..
WE ARE NOT SPEAKING OF THE CITIES OR EVEN THE DENSELY POPULATED URBAN AREAS WHICH
FOR THE MOST PART ARE ALREADY ZONED. WE ARE TALKING ABOUT THE RURAL AREAS WHERE
THERE ARE FARMS, RANCHES, PIGS CHICKENS, COWS AND HORSES..
WE ARE TIRED OF BEAURACRATIC LAW. WE WANT THE RIGHT TO VOTE, TO MAKE THE DECISION
AS TO WHAT KIND OF LAND USE PLANNING WE WILL HAVE..
WE HAVE THE RIGHT TO PETITION THE GOVERNMENT TO ASK THEM TO DO SOMETHING FOR US..
THIS LEGISLATURE HAS FOR THE MOST PART PROTECTED THAT RIGHT, THEN WHY, WHERE ISSUES
OF LAND USE AND CONTROL IS CONCERNED ARE WE FORCED TO PETITION GOVERNMENT TO ASK
THEM NOT TO DO THIS, THAT WE DON'T WANT IT. GOVERNMENT IS A SERVANT OF THE PEOPLE
AND THE BEAURACRACY IS A TOOL OF GOVERNMENT. LET US NOT GET THIS CONFUSED AND ALLOW
THE GOVERNMENT TO BECOME A TOOL OF THE BEAURACRACY. IF YOU BELIEVE IN THE RIGHT
OF THE PEOPLE TO VOTE, THEN YOU WILL GIVE SB-133 AND SB-399 A SPEEDY DO-PASS
RECOMMENDATION.

Vera Cahoon

march 10, 1981

We support SB-133 and SB-399 in our belief that we should have the right vote on an issue as important as land use planning.

Had the zoning proposal passed in the Potomac area our land would have been useless. Planners must take into consideration the needs of the people in a given area. One plan does not fit all.

If we pay for the land and pay taxes on it and try to make it productive then we must have some control of it or all is lost.

If we are zoned under the present law with the same proposal, we will simply stop all improvements and default on our taxes. We will have no choice.

We urge you to give both these bills a do-pass recommendation

Thank you,

James H. Shuler
Cahoon
Potomac, Md.

Ovando MT
March 5, 1981

Verner Bertelsen, Chairman
House Local Government Committee
Montana State House of Representatives
Helena MT 59601

Dear Verner,

We feel land is one of the most precious material possessions a person can have and think it should be controlled by the one who owns it. At present the subdivision law and zoning regulations leave a landowner with very limited say about what happens to his land. One of the big problems is that your land can literally be zoned without your knowing about it.

We think SB 133 and SB 399 give the landowner a better chance to have a say about what happens to his land by being better informed and we are asking you and your committee to support these two bills.

Thank you.

Sincerely yours,

Steven D. Greenhauer
Kenna L. Greenhauer

NAME John F. & Evelyn H. Shaw Bill No. SS-133-2 SS-894
ADDRESS 1015 Derby - 834 N.W. DATE 7-1-81
WHOM DO YOU REPRESENT Self
SUPPORT ✓ OPPOSE ✓ AMEND ✓

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

We live in Helena, now but was raised
in the Blackfoot Valley and my parents
have owned land there for over 30 years.
It is our wish in the future to live in the
Selkirk area in the Blackfoot. Our
reason for supporting both of these bills is
that we strongly feel that our livelihood
& our children's future could be greatly
affected if these bills do not pass.
We own land in an area where
we could not prosper? We desperately
need the landowner needs to have at
least some control over their land
to why then be a landowner?

Thank you
John F. & Evelyn H. Shaw
Helena MT.

NAME Tim Fancett Bill No. SP133 ~~SB 399~~ SB 399
ADDRESS Box 625 Rt. #1 Ch. Co. Mo DATE 1-18-79
WHOM DO YOU REPRESENT Missouri County Incubator
SUPPORT X OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

I recommend both SP133 and SB 399 for approval by the committee because zoning problems we have come up against. Missouri County has not accepted zoning because of the problems and control by the Planning Board and County Commissioners.

A group of area landowners in our area completely rejected zoning after seeing it because of the law as it now stands.

In the future ~~and~~ we pay it is not worth it to add some control if zoning is unreliable. It has not worked in Missouri County! People would be more aware of the facts of zoning and control with it if they understood it. Fiscal notes from the Office of Budget & Planning is none or very little. A pass is necessary to ensure sense in zoning procedures and maintain it.

House Local Govt
Sub Committee

MARCH 10 - 1981
Alfred Hutcheson
460 Mont. Ave.
E. Missoula, MT 59801
(406) 721-1610

I Feel that SB-131 & SB-399 Should
be passed For more than one Reason.

First Zoning is a very Important
matter Concerning the Lives & Styles of
Life. Their zone should be handled ~~By~~ Part
by The People who own The Land and pay
The Taxes on it. Not by a few Planners
or Commissioners that only Look at it on
A MAP.

Secondly Zoning should comply with
Current Use again do the Planners
Etc. Know what is going on in a
specific Area by looking at A MAP. The
People who Live in an Area are better
Versed on what is currently going on
and what the people want than. a person
Behind a desk.

I urge you to pass these Bills
to Restore a Little bit of Govt of The
People by the People

Thank you!

Alfred M. Hutcheson

March 5, 1981
Ovando MT

Verner Bertlesen, Chairman
House Local Government Committee
Montana State House of Representatives
Helena MT 59601

Dear Verner,

We feel land is one of the most precious material possessions a person can have and think it should be controlled by the one who owns it. At present the subdivision and zoning regulations leave a landowner with very limited say about what happens to his land. One of the big problems is that your land can literally be zoned without your knowing about it.

We think SB 133 and SB 399 give the landowner a better chance to have a say about what happens to his land by being better informed and we are asking you and your committee to support these two bills.

Thank you.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "Sandra L. Smith".

MARCH 10, 1981

IF YOU BELIEVE THAT ZONING LAWS SHOULD BE FAIR AND DEMOCRATIC YOU WILL
GIVE SB-133 AND SB-399 A DO PASS VOTE.

TOO MUCH LAW IS BEING LEGISLATED BY PLANNING DEPT. PERSONAL. WE MUST HAVE
BETTER CONTROL AND BETTER PLANNING, IF NOT THEN NO ZONING AT ALL WOULD BE
BETTER THAN BAD PLANNING.

THE RESTRICTIVE ZONING LAWS ARE UNACCEPTABLE IN RURAL AREAS. THEY SERVE TO
HURT THOSE THAT ARE ALREADY THERE.

A VOTE OF THE AFFECTED LANDOWNERS WILL RESULT IN BETTER PLANNING AND BETTER
UNDERSTANDING.

I FOR ONE WILL NEVER ACCEPT ZONING UNDER PRESENT LAW. WE HAVE TO HAVE SOME
CONTROL OF IT AND OF CHANGE.

THERE HAS TO BE A BETTER WAY THAN THE ABUSIVE PETITION PROTEST THAT WE ARE
NOW SUBJECTED TO. IF GOV'T WANTS TO ZONE, THEN THE BURDEN SHOULD BE THEIRS
TO SELL IT TO THE PEOPLE.

I URGE PASSAGE OF SB 133 AND SB-399.

thank you.

Paul and Jay Nelson

Anderson

1 *Amended* BILL NO. **399**
2 INTRODUCED BY *Marty Furrage Elliott*
3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO REQUIRE VOTER
5 APPROVAL OF A LAND-USE MASTER PLAN BEFORE IT MAY TAKE
6 EFFECT; PROVIDING PROCEDURES BY WHICH A MASTER PLAN MUST BE
7 SUBMITTED TO QUALIFIED ELECTORS; PROVIDING FOR THE AMENDMENT
8 OR REPEAL OF A MASTER PLAN BY INITIATIVE OR REFERENDUM;
9 AMENDING SECTION 76-1-604, MCA."

10
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
12 Section 1. Section 76-1-604, MCA, is amended to read:
13 "76-1-604. Adoption, revision, or rejection of master
14 plan by local governments. (1) The governing bodies shall
15 adopt a resolution of intention to adopt, revise, or reject
16 such proposed plan or any of its parts.

17 (2) If the governing bodies adopt a resolution of
18 intention to adopt the proposed plan or any of its parts,
19 they shall submit to the qualified electors of the
20 jurisdictional area included within the proposed plan at the
21 next primary or general election or at a special election
22 the question of whether or not the plan should be adopted.

23 (3) The governing bodies shall publish notice of the
24 availability of the proposed plan for public review and the
25 election on the question of adoption of the proposed plan in

1 a newspaper of general circulation in the area to be
2 included within the proposed plan for 3 consecutive weeks
3 prior to the election.

4 (4) The governing bodies shall make copies of the
5 proposed plan in its entirety available to the public for
6 review for a period of 60 days prior to the election.

7 (5) If a majority of the qualified electors voting on
8 the proposed plan approve it, the plan shall take effect
9 immediately. *and shall be in force for 5 years*
10 If a majority of the qualified electors voting
11 on the proposed plan disapprove it, the plan may not be
12 resubmitted to the qualified electors for a period of 1 year
13 from the date of disapproval.

14 (6) (a) The governing bodies may revise or repeal a
15 master plan adopted under this section.

16 (b) The qualified electors of the jurisdictional area
17 included within the master plan may by initiative or
18 referendum, as provided in 7-5-131 through 7-5-137, revise
19 or repeal a master plan adopted under this section."

-End-

Bub Decker
what
messing
does the
majority
vote
have?

Vote on
district
only?
WV

(1) Whose plan submitted?

(2) Affects capital improvement and
other projects and with 51% community

(3) Not flexible
once adopted

VISITORS' REGISTER

HOUSE LOCAL GOVERNMENT

COMMITTEE

BILL SENATE BILL 399

Date March 10 - 12:30 p.m.

SPONSOR SENATOR JOHN MANLEY

Old Highway Auditorium

NAME	RESIDENCE	REPRESENTING	SUPPORT	OP
Julie Hacken	St. Albans, Vt.	self	X	
Michael Copenhagen	Orlando, FL	self	X	
Betty Reinisch	Orlando,	Self	X	
Marjorie Shaw	Orlando	"	X	
Ann M. M. M.	Orlando	"	X	
Joan P. Baird	Orlando	Self	X	
William Jorgensen	Orlando	self	X	
George H. H.	Potomac	self	X	
Thurman Torgerson	Penon	Self		X
Agnis P. P.	Orlando	self	X	
Betty B. Nelson	Bonnie (Twin Creek)	self	X	
Michael C. C.	Potomac	self	X	
Robert Boucher	Potomac	chairman Blackfoot Freeholder	X	
James P. P.	Potomac	co-chairman Blackfoot Freeholder	X	
William A. Davis	Helena	self	X	
William P. P.	Potomac	self	X	
John F. F.	Clinton Mt	Miss County Freeholder	X	
Ellen J. J.	Missouri Mt	Helena Freeholder	X	
John L. L.	Hammond Mt	self	X	
Joe Nelson	Potomac Mt.	self	X	
John M. M.	Missouri Mt.	self	X	
Bob Pecker	Helena	James & Clark County		X
Mary L. L.	Missouri	self	X	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

HOUSE LOCAL GOVERNMENT COMMITTEE

BILL SENATE BILL 399

Date March 10, 1981 == 12:30

SPONSOR SENATOR JOHN MANLEY

Old Highway Auditorium

NAME	RESIDENCE	REPRESENTING	SUPPORT	OPP
James F. Lyman	Indio, Inverett	Self	X	
Alfred M. Hutcherson	E. Monmouth	Self	X	
Wale Allen	Butte Mt.	North Hills Planners		X
John S. [unclear]	CLARK, Mont.		X	
DENNIS TAYLOR	HELENA	CITY OF HELENA		X
Mike Stephy	Helena	MT Assoc of Co		X
J. F. Leller	Billings			X
Rose Leavitt	Helena	Lat Vol Mt		X
Frank Warner	Helena	Manufacturers of		
J. [unclear]	Helena	Mt. Manufactured Housing Assoc.	X	
Don Snow	Helena	E I C	AMEND	X

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

NAME Charles J. Hyman Bill No. 399

ADDRESS 1100 Hyman Ave. Miami DATE 3-18-51

WHOM DO YOU REPRESENT Self

SUPPORT X OPPOSE AMEND

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

Both bills are needed

NAME Rose Leavitt BILL No. SB399
ADDRESS 318 Harrison - Helena DATE 3/10/81
WHOM DO YOU REPRESENT LUV of Montana
SUPPORT _____ OPPOSE X AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

please see prepared statement

To: House Local Government Committee
From: League of Women Voters of Montana
Re: Senate Bill 399

The League supports the concept of voter approval of land use master plans but because there are so many ambiguities in S.B. 399 and because the intent is not clear we urge that you reject the bill as it now stands or amend it to make it workable.

Subsections (1) and (2) do not make it clear if this is a one-time vote on a plan introduced for the first time or if a vote is required each time a revision is made in a plan. We see problems in having a county-wide vote on a plan that contains different land-use options for separate geographical areas. Provision then should be made for planning districts to vote on the land-use plan that directly impacts their area.

If these sections can be amended to clarify what will be voted on then it would seem to be very unfair to allow the governing body the option of immediately revising or repealing that plan.

We propose that subsection 6 (a) be stricken (lines 13-14, page 2) and that on line 9, page 2 there be added after the word immediately "and shall be in force for five years at which time the planning board shall review and update the plan and submit the revised plan to the voters."

Subsection 6 (b) would allow the governing body the option of submitting to the voters a resolution to revise or repeal the plan in the interim five years if a real problem should come up.

Clearly the LWV is supportive of voter input and involvement but the current planning process allows for this without costly elections. S.B. 399 does not appear to be needed or workable.

NAME Thurman Trosper Bill No. 5399

ADDRESS Rt #1 Box 43 Rovan DATE 3/10/81

WHOM DO YOU REPRESENT Self

SUPPORT _____ OPPOSE V AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

Statement by Thurman Trospen, member of Lake County Planning Board, before the House Committee on Local Government, March 10, 1981

Ladies and Gentlemen:

Senate Bill 399 is not a practical approach to resolving any of the problems associated with land use planning. Land use planning is relatively new to Montana and especially to Lake County. We all have a great deal to learn about ways to make land use planning practical, economical, and to serve the public interest. We in Lake County have an over-riding need to protect our agricultural land base. Both in the short-term and long-term, agriculture is and will continue to be the sustaining factor in our economy. We all know from recent studies that the United States is losing its prime agricultural land at a staggering rate and in not too many years we will be importing agricultural products.

Unless the local government does something positive to protect the agricultural base of their areas, the higher level of government will step in and mandate the agricultural base be protected in the national interest. We have the clear choice of locally assuring the preservation of our agriculture lands or ultimately facing certain mandate from the federal government to do so.

Senate Bill 399 presents several stumbling blocks to obtaining this important objective. In addition, it will prove very cumbersome and costly to implement.

Land use planning is a very complex process requiring intensive citizen involvement in the formulation of policies that are fair and equitable to all segments of the community. The planning process is, first of all, an educational process and must take place over time in order that land owners and the general public understand how their interests and the values of the community can be enhanced and protected.

It does not make sense to have a master plan approved by referendum after a large investment of time, effort and money has gone into the preparation of such a plan. It would be far better if a referendum were held in each county to decide whether or not the county should work toward a land use plan prior to the expenditure of large sums of money.

An experience in Lake County proved to us that it would be a very simple task for any small, special interest group to thwart the majority through misinformation concerning the purposes of land use planning.

The Lake County Planning Board and Planning Staff attempted for four years to involve citizens in the planning process. These efforts were unsuccessful so the County Commissioners recommended the planning board members with the assistance of the planning staff develop a first approximation of a land use plan. This proposed plan was intended as a point of beginning to involve citizens in understanding the complexities, relationships, and implications of land use planning. This proposal was seized upon and misrepresented by a vocal minority and it was not long until a petition was circulated asking the commissioners to not accept the plan and to fire the planner. The commissioners, planning board and staff in all meetings leading up to the distribution of the plan told the public in news releases and letters and in public meetings that this was only a draft plan meant to stimulate citizen review on the local level. I mention this only to illustrate how easy it is for a small group to confuse the public through misrepresentation and thwart any constructive planning process. If this measure is adopted it would, for all practical purposes, stop all future planning in Montana.

The state law has charged the county commissioners with the responsibility for protecting the health, welfare, morals, and safety of their constituency. How, I might ask, are the commissioners to redeem this responsibility when it is not possible for them to adopt a comprehensive land use plan and a system for its implementation?

The commissioners are in a position to listen to all public input and to evaluate the validity of that input as to whether or not it is based on reality or on misinformation. They are in a position to study any proposed plan to evaluate its impact and its affect at protecting the public health, safety and welfare. Under the present statutes that authorize land use planning, there are adequate checks and balances to protect every citizen's interest. In addition, since we live in a rapidly changing environment any land use plan that establishes guidelines and gives direction to overall development must be amended periodically as the need arises. This is provided for in present law. The people want flexibility but you won't get it if every modification has to be submitted to the electorate.

It stands to reason that any major change in a land use plan that has been adopted by referendum would itself have to be amended by referendum. The bill is inconsistent in this respect.

It must be pointed out that referenda are very time consuming and costly to the county, often requiring special elections.

In addition to the above adverse comments, it seems to me that the proposals under SB399 would relieve the county commissioners of a major responsibility entrusted to them by state law and the electorate. As such I would imagine county commissioners in general would welcome the enactment of this bill!

Land use planning is not a communist plot. The process is the very essence of democracy at the grass roots. It comes as near to the old New England town meeting as one can get.

Thurman Trooper

76-1-601. Master plan — contents. The planning board shall prepare and propose a master plan for the jurisdictional area. The plan may propose ordinances or resolutions for possible adoption by the appropriate governing body. The plan may include:

- (1) careful and comprehensive surveys and studies of existing conditions and the probable future growth of the city and its environs or of the county;
- (2) maps, plats, charts, and descriptive material presenting basic information, locations, extent, and character of any of the following:
 - (a) history, population, and physical site conditions;
 - (b) land use, including the height, area, bulk, location, and use of private and public structures and premises;
 - (c) population densities;
 - (d) community centers and neighborhood units;
 - (e) blighted and slum areas;
 - (f) streets and highways, including bridges, viaducts, subways, parkways, alleys, and other public ways and places;
 - (g) sewers, sanitation, and drainage, including handling, treatment, and disposal of excess drainage waters, sewage, garbage, refuse, and other wastes;
 - (h) flood control and prevention;
 - (i) public and private utilities, including water, light, heat, communication, and other services;
 - (j) transportation, including rail, bus, truck, air, and water transport and their terminal facilities;
 - (k) local mass transit, including motor and trolley bus; street, elevated, or underground railways; and taxicabs;
 - (l) parks and recreation, including parks, playgrounds, reservations, forests, wildlife refuges, and other public grounds, spaces, and facilities of a recreational nature;
 - (m) public buildings and institutions, including governmental administration and service buildings, hospitals, infirmaries, clinics, penal and correctional institutions, and other civic and social service buildings;
 - (n) education, including location and extent of schools, colleges, and universities;
 - (o) land utilization, including areas for manufacturing and industrial uses, concentration of wholesale business, retail business, and other commercial uses, residential uses, and areas for mixed uses;
 - (p) conservation of water, soil, agricultural, and mineral resources;
 - (q) any other factors which are a part of the physical, economic, or social situation within the city or county;

(3) reports, maps, charts, and recommendations setting forth plans for the development, redevelopment, improvement, extension, and revision of the subjects and physical situations of the city or county set out in subsection (2) so as to substantially accomplish the object of this chapter as set out in 76-1-101 and 76-1-102;

(4) a long-range development program of public works' projects, based on the recommended plans of the planning board, for the purpose of eliminating unplanned, unsightly, untimely, and extravagant projects and with a view to stabilizing industry and employment and the keeping of such program up-to-date for all separate taxing units within the city or county, respectively, for the purpose of assuring efficient and economic use of public funds;

(5) recommendations setting forth the development, improvement, and extension of areas, if any, to be set aside for use as trailer courts and sites for mobile homes.

History: Ap. p. Sec. 31, Ch. 246, L. 1957; amd. Sec. 12, Ch. 247, L. 1963; amd. Sec. 1, Ch. 156, L. 1973; Sec. 11-3831, R.C.M. 1947; Ap. p. Sec. 3, Ch. 246, L. 1957; amd. Sec. 2, Ch. 247, L. 1963; amd. Sec. 1, Ch. 349, L. 1973; Sec. 11-3803, R.C.M. 1947; R.C.M. 1947, 11-3803(part), 11-3831.

76-1-602. Public hearing on proposed master plan. (1) Prior to the submission of the proposed master plan to the governing bodies, the board shall give notice and hold a public hearing on the plan.

(2) At least 10 days prior to the date set for hearing, the board shall publish in a newspaper of general circulation in the jurisdictional area a notice of the time and place of the hearing.

History: En. Sec. 33, Ch. 246, L. 1957; amd. Sec. 13, Ch. 247, L. 1963; R.C.M. 1947, 11-3833.

76-1-603. Adoption of master plan by planning board. After consideration of the recommendations and suggestions elicited at the public hearing, the planning board shall by resolution recommend the proposed master plan and any proposed ordinances and resolutions for its implementation to the governing bodies of the governmental units represented on the board.

History: En. Sec. 34, Ch. 246, L. 1957; amd. Sec. 14, Ch. 247, L. 1963; R.C.M. 1947, 11-3834.

76-1-604. Adoption, revision, or rejection of master plan by local governments. The governing bodies shall adopt, revise, or reject such proposed plan or any of its parts.

History: En. Sec. 40, Ch. 246, L. 1957; amd. Sec. 15, Ch. 247, L. 1963; R.C.M. 1947, 11-3840(part).

76-1-605. Use of adopted master plan. After adoption of the master plan, the city council, the board of county commissioners, or other governing body within the territorial jurisdiction of the board shall be guided by and give consideration to the general policy and pattern of development set out in the master plan in the:

- (1) authorization, construction, alteration, or abandonment of public ways, public places, public structures, or public utilities;
- (2) authorization, acceptance, or construction of water mains, sewers, connections, facilities, or utilities;
- (3) adoption of subdivision controls;
- (4) adoption of zoning ordinances or resolutions.

History: En. Sec. 40, Ch. 246, L. 1957; amd. Sec. 15, Ch. 247, L. 1963; R.C.M. 1947, 11-3840(part).

76-1-606. Effect of master plan on subdivisions and plats. (1) Where a master plan has been approved, the city council may by ordinance or the board of county commissioners may by resolution require subdivision plats to conform to the provisions of the master plan. Certified copies of such ordinance shall be filed with the city or town clerk and with the county clerk and recorder of the county.

(2) Thereafter:

(a) a plat involving lands within the corporate limits of the city and covered by said master plan shall not be filed without first presenting it to the planning board, which shall make a report to the city council advising as to compliance or noncompliance of the plat with the master plan. The city council shall have the final authority to approve the filing of such plat.

(b) a plat involving lands outside the corporate limits of the city and covered by said master plan shall not be filed without first presenting it to the planning board which shall make a report to the board of county commissioners advising as to compliance or noncompliance of the plat with the master plan. The board of county commissioners shall have the final authority to approve the filing of such plat.

(3) Nothing herein contained shall be interpreted to limit the present powers of the city or county governments but shall be an additional requirement before any plat may be filed of record or entitled to be recorded.

History: En. Sec. 42, Ch. 246, L. 1957; amd. Sec. 4, Ch. 271, L. 1959; amd. Sec. 16, Ch. 247, L. 1963; amd. Sec. 9, Ch. 273, L. 1971; R.C.M. 1947, 11-3842.

NAME Paul Casanova Bill No. 133 + 399
ADDRESS Box 111 Corvallis 754 DATE 3/10/81
WHOM DO YOU REPRESENT Self
SUPPORT X OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments: Will read paper

NAME John G. Baker Bill No. 599

ADDRESS Belmont DATE March

WHOM DO YOU REPRESENT Thos. G. Baker

SUPPORT ☒ OPPOSE ☐ AMEND ☐

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

Bill hand in



The Montana Environmental Information Center

March 10, 1981

• P.O. Box 1184, Helena, Montana 59601 (406) 443-2520
• P.O. Box 8166, Missoula, Montana 59801 (406) 728-2644

Testimony Before the House Local Government Committee Regarding HB 133 and HB 399

My name is Don Snow. I am Staff Coordinator of the Montana Environmental Information Center. I rise in opposition to both HB 133 and HB 399. I will concentrate my remarks, however, chiefly on HB 399.

We support citizen input at all stages in the land use planning process. We also support the use of elections for citizens to impact major decisions that affect their lives. Briefly, our objections to HB 399 in both regards are two: First, the bill will not accomplish its supposed objective of enhancing citizen input in the planning process. The development of master land use plans is a complicated and time-consuming affair that involves compromise and debate if it is done properly. EIC does not feel that in all instances, the power of the vote on the formulation of land use plans is a way of encouraging meaningful participation. Second, requiring a vote on all land use master plans will add red tape and expense to the county or city and ultimately to the taxpayers. Rather than a mandatory vote on all master plans, we suggest amending the bill to clarify and empower the use of initiatives or referenda to allow for voters to approve or disapprove master plans. Striking sections 2-6 of the bill, leaving section 6(b) to directly empower citizen initiatives and referenda for master plans. The process then would be relatively simple: if 15% of the affected voters in a planning jurisdiction wanted to put the plan up for a vote, they could do so through petition. If 15% of an affected county or city does not object

page 2

ELC on HB 133 and 399

to the plan as drafted by local officials, why put the county through the expense of voter approval?

Citizen involvement is the key element in planning, and the planning formula used now in most counties uses and depends on citizen input. Missoula County is one example of how the master plan is developed through citizen input and recruitment.

They did their urban and rural land use plans at the same time. The process took three years, from 1973 to 1975. The first year was spent gathering preliminary information. Then questionnaires were sent out through the newspaper in the city, and in the rural areas they were delivered by service organizations. 2000 responses were received. Next they began a year long process of public meetings in various areas of the county, forming Citizen Advisory Groups in the rural areas and Task Forces in the city. There were about six to nine rural groups, several of which are still active and involved with land use issues. The initial meeting was often hostile, but as people realized that they had an important role in the formation of the plan they became involved. The core action group of people in each citizen advisory group usually involved six to twelve individuals. The rural group meeting process followed this general format: first they talked about the planning process, identified issues of importance to the area, gathered information, set goals to apply to land use planning, drafted alternatives for the plan, discussed pros and cons of the alternatives. The final meetings of discussing the alternatives and getting input for the final version of the draft had especially good turnout. The last step was the formalized hearings, of which there were three before each board. The composition for the urban Task Forces was topical rather than geographical and there were eight groups. The process was similar, and there were also three hearings before each board for the final urban plan. Lolo was handled as a separate community in the process. Missoula County is NOT a lone example.

There are outstanding examples as well, as other speakers have addressed today.

Our position on HB 399, then, is that voter approval might be, but will not necessarily be, an enhancement of citizen input in the planning process. Since there is question, we would favor having the law clarify the role of initiatives and referenda on master plans, rather than requiring costly election issues on the ballot.

In regard to HB 133, the following adequately states our position opposing the bill in its present form:

CHAIRMAN BERTELSEN said there was probably a certain amount of misunderstanding that occurs when anyone reads something because they all had it to read. It shouldn't have been that difficult. There is a fear any time you institute zoning that what you are going to do is take away the people's opportunity to control their own destiny, so to speak, and I suspect you can say there were people who misunderstood on both sides, and even after it is all done there are people who still misunderstand the issue. But whether that is the fault or benefit of this, I personally don't know.

REP. PISTORIA said he thinks this is a good bill. It gives the people the right to vote. My rights are worth more to me than all the money in the world.

QUESTION of BE NOT CONCURRED IN for SB 133. A roll call vote was taken resulting in the following: 9 committee members voting yes for "DO NOT PASS", 7 voted no for "DO NOT PASS" and three committee members were either absent or excused. MOTION FAILED, and SB 133 received a BE NOT CONCURRED IN recommendation. Those voting "NO" included REPS. BERTELSEN, VINGER, ANDREASON, GOULD, PISTORIA, SALES and SWITZER.

SB 399, Sponsored by SENATOR MANLEY

REP. SALES moved that SB 399 BE CONCURRED IN.

CHAIRMAN BERTELSEN said SB 399 deals with planning rather than zoning.

REP. ANDREASON said he'd like to support the DO PASS motion. Since we have just taken away from the people the right to vote on specific zoning, I would like to see them be able to participate in deciding on the Master Plan. They should have the minimum opportunity to decide on what is going to happen to their land.

REP. DUSSAULT made a substitute motion of BE NOT CONCURRED IN. I feel some of the testimony was misleading. I remember SENATOR TURNAGE suggesting that part of the reason for introduction of this bill was to allow the Master Plan to be revised because apparently there was no ability in the current law to do that. I think that was probably a fictitious statement because I know the plans are being updated and revised. It is also my understanding that Master Plans are essentially advisory in nature to further action taken by the planning and zoning staff and it doesn't necessarily have any affect.

REP. ANDREASON said they may be advisory but it is my understanding that they pretty well follow it, without too much deviation. There may be an opportunity now to revise their Master Plan but not in the way proposed.

CHAIRMAN BERTELSEN asked if this requires a vote in case the Master Plan is revised?

REP. ANDREASON said yes, it does require a vote.

REP. SALES said this is shown on lines 13-15, page 2.

REP. WALDRON: If you find that your plan isn't going to fit the best use of an area, which has happened in Missoula County, then in order to change the plan you have to go to an election. Is this correct?

REP. MATSKO said that on page 2, lines 13 and 14, sub 6, doesn't that statement say that the governing body may revise or repeal the Master Plan? He asked Lee to reply.

LEE HEIMAN said it would give the governing body an option in saying we will revise or repeal or else throw this plan out and start on a new one.

REP. SALES said it isn't automatic. Either initiative or referendum would have to occur before there would be a vote on the revision.

REP. HANNAH said he is going to attempt an amendment. I MOVE TO amend SB 399 as follows: Page 1, line 17 through line 12 of page 2, strike the subsections (2) through (5) in their entirety. Also on page 2, line 13, following line 12, strike "(6) (a)" and insert "(2)", and following "may" insert "adopt,". With these changes, it would read:

"1) The governing bodies shall adopt a resolution of intention to adopt, revise or reject such proposed plan or any of its parts.

(a) The governing bodies may revise, or repeal a Master Plan adopted under this section.

(b) The qualified electors of the jurisdictional area, etc."

My intent is that I feel those are two good parts of the bill. If the attorneys are right that the governing body doesn't have the ability to revise a Master Plan, then I think they should and they would then have that freedom to revise or repeal the plan. I feel it is important that if there are people out there that can get together, get a petition and a vote of the people, that is right. I feel the part I've stricken is very unclear as to who does what, it is an inflexible plan once it passed and I think that when you get down to the fact that it is a voted plan, I think you are in fact stopping zoning. I'm not a real advocate of zoning.

REP. ANDREASON asked REP. HANNAH why he removed those particular areas?

REP. WALDRON said he understands those parts are already in the current law and were just dealt with in the previous bill.

LEE HEIMAN said this is in a separate section. I handed out a sheet at the hearing that had all of the planning parts on it. The open meeting law does require a notice.

REP. SALES said he thinks this is a very good bill. The two sections REP. HANNAH wants to leave in are important because they are one of the areas that are unclear at the present time and it does set up an issue to provide for revising or repealing a plan that should be in there. I don't like to see the section on the election process taken out. I think if people were allowed to vote on the Master Plan they would feel a lot more comfortable. It strengthens the plan if people have a chance to vote on it.

REP. SWITZER said he opposes the amendment. I think each section serves a little purpose, particularly on page 2, line 7, subsection 5. I can see a lot of merit in the line that says it may not be resubmitted to the qualified voters for a period of one year.

REP. PISTORIA opposes the amendment too. REP. SALES just stated it all. I have attended hearings that have been practically knock-down drag-out affairs. Once you have a majority the thing should be settled and the beefs should be over.

REP. GOULD said most Americans feel if they vote on something, even if they are on the losing side of the vote, that that is the will of the majority and that is what they will go along with. I like the idea of voting.

REP. DUSSAULT asked "then why don't we vote on everything? Why don't we say that every proposed action the county commissioners take as elected officials will be submitted to the people for a vote? Every action the Legislature takes will be submitted to the people for a vote? It seems to me that we don't live in a pure democracy; we live in a representative democracy, and that elected representatives are delegated the power to act for people.

REP. SALES this isn't just anything. This is a very important matter.

REP. DUSSAULT said I know it is, and that is why my opposition to this bill is so strong.

REP. ANDREASON said he agrees with REP. DUSSAULT and thinks that is the question. Why don't we vote on everything? We should have the option of deciding the things upon which we vote and the things upon which we don't vote. Things that should be more feasibly voted upon at that time are all right and should have that option and the things that are more likely to be ruled upon by a governing body should have that option too. I think we should vote on some things and not on others.

REP. HANNAH said that being the case, my amendment does exactly what everybody wants. It gives everybody the option to vote.

REP. SALES said you struck out the vote on the adoption.

REP. HANNAH said yes, but I've also left in the fact that the people can by the initiative process call for a vote.

REP. SALES said not on the adoption, only on the revision and the appeal.

REP. MATSKO: I feel strongly about this myself. When you are talking about a Master Plan, something whereby other decisions will be made, the public right to vote is important. I think this bill can give some direction to it. In the previous bill where you are voting on each individual change, they become very cumbersome and costly. But here you are talking about the Master Plan. I think the adoption of that is something that should rightly be put to a vote of the people as well as the repeal of it.

REP. HANNAH said he apologizes to the committee. That wasn't my intent. Lee just brought me a revision to my amendment and if you'll look at line 13, page 2, after "may" insert "adopt", and on "page 2, line 17 following 7-5-137, insert "adopt,". My intent is to allow the people to have the option to vote on the adoption of the plan, the revision of the plan and the repeal of the plan. But it is to also give the governing bodies the freedom to do their job. This is more consistent with the representative form of government that we have today.

REP. SWITZER said he will now agree on subsection 5. We like to vote but we don't want to vote all the time and this limits it to once for that year.

REP. DUSSAULT said she doesn't think sub 5 says that at all. All it says is that the same plan cannot be submitted. Nothing can prevent them from changing two lines in the thing, calling it a new plan and resubmitting it.

REP. SWITZER said in that case, you'd hastily change planners.

REP. DUSSAULT said hopefully in the process you'd change commissioners. Planners simply work for the governing body. Those people are hired to do a job and instead of berating them, we should hold the elected officials responsible.

REP. WALDRON asked Rep. HANNAH if he wants to make the appropriate title change. Rep. Hannah replied, yes.

QUESTION was called on the amendments: The CHAIRMAN asked that a roll call vote be taken. Result was 7 voted for the amendments and 8 voted against them. AMENDMENTS FAILED.

QUESTION ON BE NOT CONCURRED IN for SB 399. A roll call vote resulted in a vote of 8 to 8, MOTION FAILED.

MINUTES OF THE MEETING OF THE LOCAL GOVERNMENT COMMITTEE
March 21, 1981

Page 15

REP. WALDRON, I move that we reconsider our action on the amendments recommended by REP. HANNAH. I think we could get a positive action on the bill if we include the amendments.

REP. SALES said all we end up with then is instead of "we shall have an election", we "may have an election". I'll second the motion.

CHAIRMAN BERTELSEN said the motion has been made that we reconsider the amendments.

QUESTION: A voice vote to reconsider the amendments resulted in 12 committee members voting "aye" and 4 voting "no". Those voting no were REPS. KESSLER, PISTORIA, SWITZER and VINGER. Three members were absent. The amendments will be reconsidered.

REP. DUSSAULT then said she wonders where the authority is for the governing body to adopt, revise or reject the original plan?

LEE HEIMAN said it would be on lines 13 and 14, page 2, resolution of intention should be dropped on the left or adopt a new section on the right.

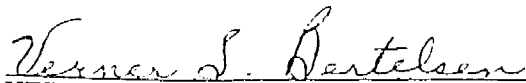
REP. HANNAH moved that the amendment includes the word "adopted" be dropped on page 2, line 14, and on line 18, page 2 also strike "adopted".

REP. SALES moved the amendments. All in favor of the amendments say "aye". Opposed, 4, including REPS. KESSLER, PISTORIA, SWITZER and VINGER. (Amendments are attached and made a part of these minutes, and shown as Exhibit A).

QUESTION ON SB 399 for a BE CONCURRED IN AS AMENDED. A roll call vote resulted in the following: 12 committee members voted "yes"; 4 voted "no" and 3 were absent. Those voting no included REPS. KESSLER, KITSELMAN, PISTORIA and SWITZER. MOTION CARRIED and SB 300 received a recommendation of AS AMENDED BE CONCURRED IN.

CHAIRMAN BERTELSEN said this takes care of executive action for today. We do have action to take on the disincorporation bill and the salary bills dealing with court reporters and county salaries.

The meeting adjourned at 9:30 a.m.



VERNER L. BERTELSEN, Chairman

Local Government Committee

March 23, 1981

Amendments to Senate Bill 399, third reading copy as follows:

1. Title, line 4.
Following: "ACT TO"
Strike: "REQUIRE"
Insert: "PROVIDE FOR"
2. Title, lines 5 through 7.
Following: "APPROVAL"
Insert: ", "
Strike: everything through and including "PROVIDING FOR THE"
3. Page 1, line 17 through 12 of page 2.
Strike: subsections (2) through (5) in their entirety
4. Page 2, line 13.
Following: Line 12
Strike: "(6)(a)"
Insert: "(2)"
Following: "may"
Insert: "adopt,"
5. Page 2, line 14.
Following: "plan"
Strike: "adopted"
6. Page 2, line 17.
Following: "7-5-137,"
Insert: "adopt,"
7. Page 2, line 18.
Following: "plan"
Strike: "adopted"
8. Page 2, line 15.
Following: line 14
Strike: "(b)"
Insert: "(3)"

STANDING COMMITTEE REPORT

March 23, 1951

MR. SPEAKER

We, your committee on LOCAL GOVERNMENT

having had under consideration SENATE Bill No. 399

A BILL FOR AN ACT ENTITLED: "AN ACT TO REQUIRE VOTER APPROVAL OF A LAND-USE MASTER PLAN BEFORE IT MAY TAKE EFFECT; PROVIDING PROCEDURES BY WHICH A MASTER PLAN MUST BE SUBMITTED TO QUALIFIED ELECTORS; PROVIDING FOR THE AMENDMENT OR REPEAL OF A MASTER PLAN BY INITIATIVE OR REFERENDUM; AMENDING SECTION 76-1-604, MCA."

House Amendments to:

Respectfully report as follows: That SENATE Bill No. 399

1. Title, line 4.

Following: "ACT TO"

Strike: "REQUIRE"

Insert: "PROVIDE FOR"

2. Title, lines 5 through 7.

Following: "APPROVAL"

Insert: ", "

Strike: everything through and including "PROVIDING FOR THE"

3. Page 1, line 17 through 12 of page 2.

Strike: subsections (2) through (5) in their entirety

4. Page 2, line 13.

Following: Line 12

Strike: "(6)(a)"

Insert: "(2)"

Following: "may"

Insert: "adopt,"

Amendments to Senate Bill 399 (continued)

5. Page 2, line 14.

Following: "plan"

Strike: "adopted"

6. Page 2, line 17.

Following: "7-5-137"

Insert: "adopt,"

7. Page 2, line 18.

Following: "plan"

Strike: "adopted"

8. Page 2, line 15.

Following: line 14

Strike: "(b)"

Insert: "(3)"

AS AMENDED BE CONCURRED IN